House of Representatives

File No. 821

General Assembly

January Session, 2001

(Reprint of File No. 289)

House Bill No. 6972
As Amended by House Amendment
Schedules "A" and "B"

Approved by the Legislative Commissioner
May 25, 2001

AN ACT CONCERNING EMISSIONS FROM SEWAGE SLUDGE INCINERATORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22a-191a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) On or before February 1, 1994, the Commissioner of Environmental Protection, in conjunction with the dioxin testing program established under section 22a-191 and within available appropriations, shall prepare a plan to implement a program of testing of resource recovery facilities for the presence of mercury and other metals in the air emissions of such facilities. Such plan shall be submitted to the joint standing committee of the General Assembly having cognizance of matters relating to the environment. Such testing shall commence July 1, 1994, in accordance with applicable testing protocols established by the United States Environmental Protection Agency and shall be conducted at least once annually thereafter. The costs of such testing shall be paid out of the solid waste account established pursuant to section 22a-233.

(b) On or before January 1, 2002, and annually thereafter, the operator of each sewage sludge incinerator in this state shall conduct a stack test for the presence of mercury, metals, hydrocarbons and dioxins in the air emissions of each such incinerator. Such test shall be conducted, and the results of such test reviewed and reported to the commissioner, in accordance with any procedures established by the commissioner and on any forms prescribed by the commissioner. After reviewing such report, the commissioner may order additional testing to be conducted or additional control measures to be undertaken at the incinerator if the commissioner determines that such testing or measures are necessary and reasonable for the protection of human health or the environment.

Sec. 2. (NEW) The budget-making authority of a municipality may appropriate any income earned from the investment of sewer benefit assessments to pay for any increase in fees for the disposal of sewage sludge, which increase is due to the requirements of section 1 of this act, provided (1) no bonds, notes or other obligations issued to acquire or construct all or any part of a sewerage system, pursuant to section 7-259 of the general statutes are outstanding; and (2) no sewerage system acquisition or construction projects are authorized or in progress.

Sec. 3. Section 7-249 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) At any time after a municipality, by its water pollution control authority, has acquired or constructed, a sewerage system or portion thereof, the water pollution control authority may levy benefit assessments upon the lands and buildings in the municipality which, in its judgment, are especially benefited thereby, whether they abut on such sewerage system or not, and upon the owners of such land and buildings, according to such rule as the water pollution control authority adopts, subject to the right of appeal as hereinafter provided. Benefits to buildings or structures constructed or expanded after the initial assessment may be assessed as if the new or expanded buildings or structures had existed at the time of the initial assessment. Such

benefits and benefits to anticipated development of land zoned for other than business, commercial or industrial purposes or land classified as farm land, forest land or open space land on the last completed grand list of the municipality in which such land is located, pursuant to the provisions of sections 12-107a to 12-107e, inclusive, shall not be assessed until such construction or expansion or development is approved or occurs. In case of a property so zoned or classified which exceeds by more than one hundred per cent the size of the smallest lot permitted in the lowest density residential zone allowed under zoning regulations or, in the case of a town having no zoning regulations, a lot size of one acre in area and one hundred fifty feet in frontage, assessment of such excess land shall be deferred until such time as such excess land shall be built upon or a building permit issued therefor or until approval of a subdivision plan of such excess property by the planning commission having jurisdiction, whichever event occurs first at which time assessment may be made as provided herein. No lien securing payment shall be filed until the property is assessed. The sum of initial and subsequent assessments shall not exceed the special benefit accruing to the property. Such assessment may include a proportionate share of the cost of any part of the sewerage system, including the cost of preliminary studies and surveys, detailed working plans and specifications, acquiring necessary land or property or any interest therein, damage awards, construction costs, interest charges during construction, legal and other fees, or any other expense incidental to the completion of the work. The water pollution control authority may divide the total territory to be benefited by a sewerage system into districts and may levy assessments against the property benefited in each district separately. In assessing benefits against property in any district the water pollution control authority may add to the cost of the part of the sewerage system located in the district a proportionate share of the cost of any part of the sewerage system located outside the district but deemed by the water pollution control authority to be necessary or desirable for the operation of the part of the system within the district. In assessing benefits and apportioning the amount to be raised thereby

among the properties benefited, the water pollution control authority may give consideration to the area, frontage, grand list valuation and to present or permitted use or classification of benefited properties and to any other relevant factors. The water pollution control authority may make reasonable allowances in the case of properties having a frontage on more than one street and whenever for any reason the particular situation of any property requires an allowance. Revenue from the assessment of benefits shall be used solely for the acquisition or construction of the sewerage system providing such benefits or for the payment of principal of and interest on bonds or notes issued to finance such acquisition or construction. No assessment shall be made against any property in excess of the special benefit to accrue to such property. The water pollution control authority shall place a caveat on the land records in each instance where assessment of benefits to anticipated development of land zoned for other than business, commercial or industrial purposes or land classified as farm land, forest land or open space land has been deferred.

(b) The budget-making authority of a municipality may appropriate as general revenue of the municipality any income earned from the investment of sewer benefit assessments provided (1) no bonds, notes or other obligations issued to acquire or construct all or any part of a sewerage system, pursuant to section 7-259 are outstanding; and (2) no sewerage system acquisition or construction projects are authorized or in progress.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Department o Environmental Protection

Municipal Impact: See Explanation Below

Explanation

State and Municipal Impact:

Passage of this bill will require operators of sewage sludge incinerators in the state to conduct stack tests for the presence of metals, lead, hydrocarbons and dioxin in the air emissions on or before January 1, 2002 and annually thereafter. It is estimated that each stack test costs the facility between $35,000-$45,000. Any costs would be passed on to users, including the municipalities and the state. The bill also provides that municipalities can use interest income from sewer benefit assessments under certain conditions to pay for an increase in fees due to the testing. There are 7 facilities with 10 stacks located in the state. One additional facility with 1 unit could potentially fall under the testing requirements. Costs incurred by the Department of Environmental Protection (DEP) for oversight and review (which are included in the cost range above) are recouped through fees. The revenues are deposited into the Environmental Quality Fund of DEP, which is used to pay for various DEP programs. Using current staff and requiring 10 tests per year would result in diverting an existing staff person away from current duties for approximately 2 months per year. The bill also gives the DEP authority to order additional testing.

Testing can be ordered by the DEP at the current time, so there is no impact from this provision.

The bill grants municipalities conditional permission to use interest income on sewer benefit assessment revenue to cover the cost of any governmental function. Under current law, this income is typically returned to a municipality's water pollution control authority to cover the operating and capital costs of a sewer system. Depending upon the municipality involved and the degree of development it is experiencing, total annual revenue from sewer benefit assessments may exceed $200,000. Assuming a six percent annual rate of return through the state's short-term investment fund, the interest income on this revenue could be $12,000 or more. It is unknown how many municipalities would meet the conditions established by the amendment. It is anticipated that the amount of revenue to municipal general funds would be minimal.

Current law does not specify the treatment of income from investing sewer benefit assessments, although it does prohibit the use of sewer benefit assessments for anything other than covering the operating and capital costs of the sewerage system pursuant to CGS section 7-267.

House "A" adds dioxin to the testing requirements, which increases costs, and eliminates regulations which reduce the DEP's costs.

House "B" adds the provisions concerning the sewage benefits assessments which could minimally increase revenue to municipal general funds.

OLR Amended Bill Analysis
HB 6972 (as amended by House "A" and "B")*

AN ACT CONCERNING EMISSIONS FROM SEWAGE SLUDGE INCINERATORS

SUMMARY:
This bill requires sewage sludge incinerator operators to test and review their incinerators' emissions annually and report the results to the Department of Environmental Protection (DEP) commissioner according to the procedures he develops. The tests must be conducted by January 1, starting in 2002, and must test stack emissions for the presence of metals, lead, hydrocarbons, and dioxins.

The commissioner must review the reports operators submit. After doing so, he can order additional testing or additional pollution control measures, if he determines them necessary and reasonable to protect human health or the environment.

The bill allows a municipality's budget-making authority to appropriate any income from investments of sewer assessments as general revenue and allows it to use the income to pay for the increase in fees for sewage sludge disposal brought about by the testing requirements. The authority can do this only if (1) no bonds or other obligations to build or acquire a sewer system are outstanding and (2) no new projects are authorized or in progress.

*House Amendment "A" adds the requirement for annual dioxin testing and deletes a requirement that DEP adopt regulations to implement the testing requirements.

*House Amendment "B" adds the provision on sewage benefits assessments.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Legislative History

On April 24 and May 2, the House referred the original version of this bill (File 289) to the Planning and Development and Appropriations committees, respectively. The committees favorably reported the bill on April 25 and May 7, respectively.

COMMITTEE ACTION

Environment Committee

Joint Favorable Report
Yea 28 Nay 0

Planning and Development Committee

Joint Favorable Report
Yea 17 Nay 0

Appropriations Committee

Joint Favorable Report
Yea 35 Nay 2